IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

Crl.MC.No. 511 of 2007()

CRMP.391/2007 of THE JFCM COURT-I PERINTALMANNA.

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PETITIONER: CLAIMANT

SHABEERALI, S/O. BASHEER,
CHERALI HOUSE, PULAMANTOLE,
MALAPPURAM.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS:

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1. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE REVENUE DIVISIONAL OFFICER,
PERINTHALMANNA.

BY P.P. SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 511 OF 2007

Dated this the 2nd day of March, 2007

ORDER

The petitioner is the registered owner of a goods vehicle. The vehicle was seized by the police on the allegation that it was used for the illicit transportation of river sand. The petitioner applied for release of the vehicle. The learned Magistrate, by the impugned order, directed the release of the vehicle; but subject to conditions. One of the conditions imposed is that the petitioner must make a cash deposit of Rs.25,000/- which, it is directed, is liable to be released after the disposal of the matter by the District Collector.

2. The learned counsel for the petitioner submits that there is already a condition imposed that the petitioner shall execute a bond for Rs.1 lakh with two solvent sureties each for the like sum. He submits that he has got a good case to be advanced and it is unlikely that he would be directed to pay an amount of Rs.25,000/- by the District Collector. At any rate, it is absolutely not necessary to insist on deposit of such amount as condition for release of the vehicle. Condition No.1 that a

bond of Rs.1 lakh shall be executed is sufficient safeguard for all eventualities.

3. Notice was given to the learned Public Prosecutor. He was requested to take instructions as to whether there is any particular reason or circumstance warranting the imposition of such condition.

4. The learned Public Prosecutor, after taking instructions, submits that there is no allegation that the vehicle or the petitioner was involved in any earlier violation of the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. However, the learned Public Prosecutor submits that normally and usually the penalty upto Rs.25,000/- is imposed by the District Collector and that must be the reason why the learned Magistrate had insisted on the condition of deposit.

5. Considering all the relevant inputs, I am satisfied that it is not necessary to insist on Condition No.2 in respect of the petitioner and his vehicle who/which are/is not involved in any similar crime earlier. The petitioner shall in the bond undertake to pay the amounts which may be found due by the District

Collector in the proceedings to be initiated by him subject, of course, to his right of challenge against that order.

6. In the result, this Crl.M.C. is allowed. Condition No.2 shall stand modified to the above extent.

(R. BASANT, JUDGE)

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